

**INDIANA BOARD OF TAX REVIEW**  
**Small Claims**  
**Final Determination**  
**Findings and Conclusions**

**Petition:** 36-011-12-1-5-00001  
**Petitioner:** R & D Fritz, Inc.  
**Respondent:** Jackson County Assessor  
**Parcel:** 36-64-07-303-055.000-011  
**Assessment Year:** 2012

The Indiana Board of Tax Review (Board) issues this determination in the above matter, and finds and concludes as follows:

**Procedural History**

1. The Petitioner, R & D Fritz, Inc., appealed its 2012 assessment. On January 30, 2014, the Jackson County Property Tax Assessment Board of Appeals (“PTABOA”) issued its determination upholding the assessment.
2. The Petitioner then timely filed a Form 131 petition with the Board. It elected our small claims procedures.
3. On June 23, 2016, our designated administrative law judge, Gary Ricks (“ALJ”), held a hearing. Neither he nor the Board inspected the property.<sup>1</sup>
4. Russell Fritz, the Petitioner’s president, appeared for the Petitioner. The Respondent, Jackson County Assessor Katie Kaufman, represented herself. Both were sworn as witnesses.
5. The subject property contains a two-story, 132-year-old house and utility shed. It is located at 6768 North Main Street in Freetown.
6. The PTABOA determined the following values:

Land: \$7,700	Improvements: \$71,700	Total: \$79,400
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7. The Petitioner requested the following assessment:

Land: \$7,700	Improvements: \$53,600	Total: \$61,300
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<sup>1</sup> A hearing was originally scheduled on February 25, 2016. The Petitioner failed to appear, and we issued notice dismissing the appeal. The Petitioner timely sought to vacate that dismissal. We granted its request and re-scheduled the hearing.

8. The official record of the hearing consists of the following:

a. A digital recording of the hearing.

b. Exhibits:

Respondent Exhibit A: 2012 Property Record Card for the subject property,  
Respondent Exhibit B: Retrospective appraisal, prepared by Raymie Younkin  
and Richard L. Borges, II,<sup>2</sup>

Board Exhibit A: Form 131 petition with attachments,

Board Exhibit B: Original hearing notice

Board Exhibit C: Notice of Dismissal for Failure to Appear and Final  
Determination,

Board Exhibit D: March 3, 2016 letter requesting new hearing,

Board Exhibit E: Notice of re-scheduled hearing,

Board Exhibit F: Hearing sign-in sheet.

c. These findings and conclusions.

### Contentions

#### Summary of the Respondent's Case

9. To support the assessment, the Respondent offered an appraisal prepared by Raymie Younkin, an Indiana Appraiser Trainee, and Richard L. Borges II, an Indiana Certified appraiser. They certified that they performed the appraisal in accordance with the Uniform Standards of Professional Appraisal Practice ("USPAP"). *Resp't Ex. B.*

10. Younkin and Borges applied the sales-comparison approach to estimate the property's true tax value at \$65,000 as of March 1, 2012. Freetown had a "very thin" market with low sales volume. There were no sales of older homes within the two years preceding the appraisal's effective date. In fact, Younkin and Borges found only one "remotely recent" sale involving an older Freetown home that was not "a low-grade repossession property in distressed condition." They used that sale in their analysis and expanded their search geographically to find other comparable sales. They eventually chose one sale from Norman and another from Brownstown. *Resp't Ex. B.*

11. The comparable properties had homes ranging from 66 to 117 years old. One had 1.5 stories, another was a ranch, and a third was a bungalow. They sold between June 30, 2009, and February 7, 2011, for prices ranging from \$54,000 to \$64,900. Younkin and Borges adjusted each sale price to account for various ways in which the comparable

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<sup>2</sup> The Petitioner offered no exhibits.

property differed from the subject property. That included adjusting the sale price for the property with the newest house to account for the age difference. The gross adjustments were between 43.1% and 74.1% of the un-adjusted sale prices. The adjusted sale prices ranged from \$60,900 to \$68,000, which the appraisers reconciled to a value of \$65,000. *Pet'r Ex. B.*

12. Because of positive changes in the subject property's neighborhood, the Respondent adjusted the neighborhood factor as well as quality grade and condition rating assigned to the house. She also adjusted the quality grade and condition rating for the shed. *Kaufman testimony, Pet'r Ex. A.*

### **Summary of the Petitioner's Case**

13. Because the subject property has the oldest house in town, there are no comparable properties. *Fritz testimony and argument.*
14. With the exception of installing a new roof after Hurricane Ike, there have been no improvements to the property since 1986 that would justify the increase in the property's assessment. *Fritz argument.*
15. The Petitioner bought the property for its historical significance and to revitalize the town. The house is listed in the national historical registry. It has been vacant for over thirty years. It could not be sold for the amount for which it is assessed. The house continues to deteriorate, and the Petitioner's president, Russell Fritz does not have the wherewithal to fix it. The shed has a dirt floor. *Fritz testimony.*

### **Burden of Proof**

16. Generally, a taxpayer seeking review of an assessing official's determination has the burden of proving a property's assessment is wrong and what the correct assessment should be. Indiana Code § 6-1.1-15-17.2 creates an exception to the general rule and requires the assessor to prove the assessment is correct where (1) the assessment under appeal represents an increase of more than 5% over the prior year's assessment for the same property, or (2) the taxpayer successfully appealed the prior year's assessment, and the current assessment represents an increase over what was determined in the appeal, regardless of the level of that increase. *See I.C. § 6-1.1-15- 17.2(a), (b) and (d).* If the assessor fails to meet her burden, the assessment reverts to the previous year's level or to another amount shown by probative evidence. *See I.C. § 6-1.1-15- 17.2(b).*
17. The assessment increased by 29% between 2011 and 2012, climbing from \$61,300 to \$79,400. We therefore find the Respondent had the burden.

## Analysis

18. In Indiana, real property is assessed based on its “true tax value,” which means, “the market value-in-use of a property for its current use, as reflected by the utility received by the owner or by a similar user, from the property.” I.C. § 6-1.1-31-6(c). 2011 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.4-1-2). Evidence in an assessment appeal should be consistent with that standard. For example, a market-value-in-use appraisal prepared in accordance with USPAP often will be probative. *See id.*; *see also, Kooshtard Property VI, LLC v. White River Twp. Ass’r*, 836 N.E.2d 501, 506 n.6 (Ind. Tax Ct. 2005). A party may also offer actual construction costs or sale information for the property under appeal, sale or assessment information for comparable properties, and any other information compiled according to generally accepted appraisal principles. *See Eckerling v. Wayne Twp. Ass’r*, 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006); *see also, I.C. § 6-1.1-15-18*). Regardless of the method used, a party must explain how its evidence relates to the relevant valuation date. *O’Donnell v. Dep’t of Local Gov’t Fin.*, 854 N.E.2d 90, 95 (Ind. Tax Ct. 2006). For 2014 assessments, the valuation date was March 1, 2014.
19. The Respondent offered a USPAP-compliant appraisal in which Younkin and Borges applied the sales-comparison approach, a generally accepted appraisal methodology, to estimate the property’s value at \$65,000 as of the appropriate valuation date. The appraisal is prima facie evidence of the property’s true tax value.
20. The Petitioner attempted to impeach the appraisal by arguing there were no truly comparable properties because the subject property has the oldest house in town. We disagree. Although Younkin and Borges acknowledged their data was less than ideal, they found three sales of properties they believed were sufficiently comparable to the subject property to serve as substitutes once they made appropriate adjustments. Indeed, two of the properties had houses that were relatively close to the subject house’s age, and they adjusted the sale price for the third property to account for the age difference. Their gross adjustments were large, but not so large as to make their opinion unreliable.
21. Thus, the Petitioner failed to significantly impeach the appraisal. And it did not offer any probative evidence of its own to support a different value. We therefore find that the property’s true tax value was \$65,000.

## Final Determination

23. The 2012 assessment must be changed to \$65,000.

Issued: September 19, 2016

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Chairman, Indiana Board of Tax Review

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Commissioner, Indiana Board of Tax Review

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Commissioner, Indiana Board of Tax Review

**-APPEAL RIGHTS-**

You may petition for judicial review of this final determination under the provisions of Indiana Code § 6-1.1-15-5 and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice. The Indiana Code is available on the Internet at <http://www.in.gov/legislative/ic/code>. The Indiana Tax Court's rules are available at <http://www.in.gov/judiciary/rules/tax/index.html>.